meaning of Section 250(d) of the Revenue Act of 1921, c. 136, 42 Stat. 227, 265, when executed after the period of limitations had already expired. In the *Stange case* the "consent in writing" waived the period of limitations for the assessment of taxes. The question is the same whether the "consent in writing" waives the period of limitations for assessment or collection or for both. In the present case the statutory period within which collection could be made, of taxes due for 1917, would have expired March 30, 1923, five years after the return was filed. A consent in writing was executed and filed on March 3, 1924 (R. 31), extending the period for assessment and collection to April 1, 1925. The effectiveness of that consent to extend the period for collection is in question.

The second question is whether a waiver extending the statutory period for assessment empowers the Commissioner of Internal Revenue not only to assess but also to collect the taxes after the expiration of the statutory period. The petitioner filed his 1917 income tax return on March 30, 1918. (R. 38.) On February 7, 1921, he filed a waiver extending indefinitely the period within which assessment of taxes could be made. (R. 38.) The Commissioner of Internal Revenue promulgated, on April 11, 1923, Mimeograph 3085, Internal Revenue Bulletin C. B. II–1, January–June, 1923, p. 174, announcing that unlimited waivers would be held to expire April 1, 1924. On March 3, 1924, petitioner, as stated in the preceding paragraph, executed and filed a consent in writing extending

the period for both assessment and collection to April 1, 1925. (R. 31.) On March 12, 1925, the Commissioner of Internal Revenue made a jeopardy assessment of taxes found due. (R. 27.) The assessment was valid, since it was made within the statutory period as extended by waivers. Each waiver was filed within the statutory period or the statutory period as extended by waivers already on file in the Bureau. The question is whether these waivers, which conferred upon the Commissioner of Internal Revenue the power to make assessments after the expiration of the statutory period, also empowered him to collect the tax after the expiration of the statutory period.

As to the other questions raised in the petition for certiorari, we submit that the decision of the Circuit Court of Appeals was correct, and that there is no conflict of authority. We suggest that the Court limit its review to the first two questions.

Respectfully submitted.

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